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EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/646,553

Applicant(s)

GILLET ET AL.

Examiner

Catherine Simone

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 2, 6, and 15-20** are rejected under 35 U.S.C. 102(b) as being anticipated by Masatoshi (GB 2 252 528).

Masatoshi discloses a laminate composed of at least a first layer of an elastic polymer film (Fig. 2, #1) and of a second layer of an elastic textile sheet (Fig. 2, #2), where the finished laminate has either a microembossed effect, a macroembossed effect, or both, and wherein a self-adhesive coating (Fig. 2, #3) has been applied onto the textile sheet side. Regarding **claim 2**, note the weight per unit area of the polymer film is from 15 to 150 g/m² (see page 7, lines 28-30) and the weight per unit area of the textile sheet is from 25 to 200 g/m² (see page 8, line 8). Regarding **claim 6**, note the polymer film of the first layer comprises at least 65% of a thermoplastic elastomer. Regarding **claims 17 and 18**, the textile layer is macroembossed and microembossed (Fig. 2, #2; also see page 8, lines 11-20).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Masatoshi (GB 2 252 528) in view of Abuto et al. (6,096,668).

Masatoshi discloses a laminate composed of at least a first layer of an elastic polymer film (Fig. 2, #1) and of a second layer of an elastic textile sheet (Fig. 2, #2), where the finished laminate has either a microembossed effect, a macroembossed effect, or both, and wherein a self-adhesive coating (Fig. 2, #3) has been applied onto the textile sheet side. However, Masatoshi fails to disclose more than one layer of a copolymer of ethylene and polar comonomers or of a mixture of LDPE and an LLDPE, and the polymer film of the first layer being a copolymer of ethylene and an alpha-olefin. Abuto et al. teaches in the analogous art more than one layer of a copolymer of ethylene and polar comonomers or of a mixture of LDPE and an LLDPE (col. 7, lines 49-55), and the polymer film of the first layer being a copolymer of ethylene and an alpha-olefin (col. 6, lines 49-60) for the purpose of producing an elastic film laminate.

Therefore it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided more than one layer of a copolymer of ethylene and polar comonomers or of a mixture of LDPE and an LLDPE, and the polymer film of the first layer being a copolymer of ethylene and an alpha-olefin in Masatoshi as suggested by Abuto et al. in order to produce an elastic film laminate.

5. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Masatoshi (GB 2 252 528) in view of Capik et al. (5,354,597). Masatoshi discloses a laminate composed of at least a first layer of an elastic polymer film (Fig. 2, #1) and of a second layer of an elastic textile sheet

(Fig. 2, #2), where the finished laminate has either a microembossed effect, a macroembossed effect, or both, and wherein a self-adhesive coating (Fig. 2, #3) has been applied onto the textile sheet side. However, Masatoshi fails to disclose the first layer being composed of two coextruded layers with an outer layer and a tie layer. Capik et al. teaches in the analogous art two coextruded layers with an outer layer (see col. 2, lines 40-47) and a tie layer (see col. 6, lines 3-5) for the purpose of producing an elastic film laminate.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the first layer in Masatoshi to be composed of two coextruded layers with an outer layer and a tie layer as suggested by Capik et al in order to produce an elastic film laminate.

Response to Arguments

6. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Catherine Simone
Examiner
Art Unit 1772

January 21, 2003


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

1/22/03